

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 1:22-cr-00767-KWR

MARC CANDELARIA,

Defendant.

ORDER REGARDING MOTION FOR *LAFLER/FRYE* HEARING

THIS MATTER came before the Court on the United States’ Unopposed Motion for *Lafler/Frye* Hearing, filed February 1, 2023. Doc. 31. Judge Riggs granted the motion for a hearing, referred the matter to a magistrate judge to conduct the hearing as soon as practical, and ordered that the magistrate judge who conducts the hearing “shall make the prosecution’s plea offer a sealed exhibit at the hearing and verify that Defendant and defense counsel discussed the terms of the offer before rejecting the United States proposed resolution.” Doc. 32 at 1. The Court held a Zoom hearing on the motion on February 7, 2023. AUSA Samuel A. Hurtado appeared on behalf of the United States, and Sylvia A. Baiz appeared on behalf of defendant, Marc Candelaria. Mr. Candelaria also was present by video.

Based on the representations of counsel and the testimony of Marc Candelaria, the Court finds the following facts:

On June 15, 2022, the United States sent an email to Ms. Baiz extending a plea offer to Mr. Candelaria; the proposed plea agreement was attached to the email. Shortly thereafter, Ms. Baiz communicated that plea offer to Mr. Candelaria and explained to Mr. Candelaria the terms of the government’s plea offer. Ms. Baiz and Mr. Candelaria met in person, and Ms. Baiz

showed Mr. Candelaria the proposed plea agreement and went over its terms.¹ Mr. Candelaria and Ms. Baiz discussed the pros and cons of accepting the plea offer, and Mr. Candelaria decided to reject the plea offer. Before rejecting the plea offer, Ms. Baiz answered all of Mr. Candelaria's questions to his satisfaction. Mr. Candelaria had a full and complete opportunity to discuss the plea offer with Ms. Baiz, and after those discussions, he himself decided to reject the plea offer. Mr. Candelaria understood that it was solely his decision whether to accept or reject the plea offer. Mr. Candelaria also understood that he could not later change his mind and get the same plea deal that the United States offered him in June of 2022. He further understood that if he went to trial and was convicted, his sentence might be longer than the sentence he would have received had he accepted the government's plea offer. Mr. Candelaria rejected the government's plea offer knowingly and voluntarily.

Mr. Candelaria testified that he understood that in rejecting the government's plea offer, his case likely would result in a jury trial. He also testified that he understood that if he goes to trial and is convicted, he cannot then change his mind and try to get the deal that the government offered him in June of 2022. After considering all the information and evidence provided at the hearing, the Court is convinced that Mr. Candelaria received the government's plea offer, understood its terms and effects, independently and voluntarily rejected it after consulting with competent counsel, and understood that rejecting the offer likely would result in a jury trial.

IT IS THEREFORE ORDERED that the United States' Unopposed Motion for *Lafler/Frye* Hearing is **GRANTED** to the extent that the Court held the hearing. The Court finds that the United States extended a formal plea offer to Mr. Candelaria on June 15, 2022, in the

¹ At some point, AUSA Hurtado sent a second proposed plea agreement to Mr. Baiz. The terms of this second proposed plea agreement were the same as the original offer, but the USAO's plea agreement "shell" had changed, so Mr. Hurtado sent Ms. Baiz the same offer but used the updated "shell."

form of a proposed plea agreement,² that offer was conveyed and explained to Mr. Candelaria in a timely manner, and, after consulting at length with his attorney, Mr. Candelaria knowingly and voluntarily rejected the plea offer.


LAURA FASHING
U. S. MAGISTRATE JUDGE

² The proposed plea agreement that the United States emailed to Ms. Baiz on June 15, 2022, which Ms. Baiz and Mr. Candelaria later discussed, is attached to the minutes of the hearing as a sealed exhibit. *See* Doc. 35-1.